

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

Hal K. Levitte, et al.,  
Plaintiffs,  
v.  
Google, Inc.,  
Defendant.

NO. C 08-03369 JW  
NO. C 08-03452 RS  
NO. C 08-03888 SI

**ORDER DENYING PLAINTIFFS'  
MOTION TO RELATE CASES**

Presently before the Court are two Motions to Relate Cases pursuant to Civil Local Rule 3-12, filed by Plaintiffs in this action and Plaintiffs in one of the allegedly related actions.<sup>1</sup> The Plaintiff groups move to relate this action with RK West, Inc. v. Google, Inc., Case No. C 08-3452-RS, and with Pulaski & Middleman, LLC v. Google, Inc., Case No. C 08-3888-SI.

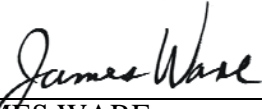
Having reviewed the parties' briefing papers, the Court finds that another motion to relate cases, filed by Defendant Google, is currently pending before Judge Ronald Whyte. (Declaration of Leo P. Norton in Support of Google, Inc.'s Consolidated Opposition to Administrative Motions to Consider Whether Cases Should Be Related, Docket Item No. 14.) The motion before Judge Whyte requests relation of the three cases at issue here, along with a fourth case, Almeida v. Google, Inc., Case No. C 08-2088-RMW. The Almeida case is the earliest filed case of the four.

<sup>1</sup> (Plaintiff Pulaski & Middleman, LLC's Administrative Motion to Consider Whether Cases Should Be Related, Docket Item No. 5; Administrative Motion to Consider Whether Cases Should Be Related Pursuant to Civil Local Rule 3-12, Docket Item No. 9.)

1 Rule 3-12(f) provides that “the Judge in this District who is assigned the earliest filed case  
2 will decide if the cases are or are not related.” If the Judge in the earliest filed case does not relate  
3 the cases, Rule 3-12(f)(2) permits Judges in the remaining cases to consider whether the later-filed  
4 cases are related. Accordingly, the Court declines to relate this case with the RK West and Pulaski  
5 cases, pending Judge Whyte’s resolution of Defendant’s motion.

6 Accordingly, the Court DENIES Plaintiffs’ Motions to Relate Cases.

7  
8 Dated: September 19, 2008

  
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JAMES WARE  
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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6

7 **Dated: September 19, 2008**

**Richard W. Wieking, Clerk**

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9 **By: /s/ JW Chambers**  
10 **Elizabeth Garcia**  
11 **Courtroom Deputy**  
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